

## 2009 DRAFTING REQUEST

### Bill

Received: **01/29/2010**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Jason Fields (608) 266-3756**

By/Representing: **Lori Youngman**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - int. rates/loans**  
**Fin. Inst. - banking inst.**

Extra Copies: **MDK**

Submit via email: **YES**

Requester's email: **Rep.Fields@legis.wisconsin.gov**

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

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### Pre Topic:

No specific pre topic given

---

### Topic:

Net worth requirement for mortgage bankers and mortgage brokers

---

### Instructions:

Wants to restore net worth requirement to amount pre-Act 2 for mortgage bankers and mortgage brokers;  
also additional piece but waiting for instructions

---

### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	agary 02/01/2010	jdye 02/01/2010	rschluet 02/01/2010	_____	sbasford 02/01/2010		
/P2	agary 02/04/2010	bkraft 02/04/2010	mduchek 02/04/2010	_____	lparisi 02/04/2010		
/1	agary 02/08/2010	jdye 02/08/2010	jfrantze 02/08/2010	_____	sbasford 02/08/2010	sbasford 02/09/2010	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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	agary	jdye					
	02/18/2010	02/18/2010					

/2

	phenry		sbasford	sbasford
	02/18/2010		02/18/2010	02/18/2010

FE Sent For:

&lt;END&gt;

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FE Sent For:

2/8

<END>



**2009 DRAFTING REQUEST****Bill**Received: **01/29/2010**Received By: **agary**Wanted: **As time permits**

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FE Sent For:

/P2 bjk 2/4

5f &lt;END&gt;

RS/PH  
2nd time

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/?	agary	PI 3/1/10		_____ _____			
FE Sent For:				<END>			



State of Wisconsin  
2009 - 2010 LEGISLATURE

in 2/1  
wanted  
by 2/4

LRB-4235/P1

ARG: x:...

JLd

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Net

X

Gen

1 AN ACT ...; relating to: licensing requirements for mortgage bankers and  
2 mortgage brokers.

***Analysis by the Legislative Reference Bureau***

Under current law, a person may not act as a mortgage banker or mortgage broker unless the person is licensed as such with the Division of Banking in the Department of Financial Institutions (division). A mortgage banker is, with certain exceptions, a person who originates residential mortgage loans (loans) for itself or for another person; sells loans or interests in loans to another person; or services loans or provides escrow services. A mortgage broker is, with certain exceptions, a person who, on behalf of a loan applicant or an investor and for commission or other compensation, finds a loan or negotiates a loan or loan commitment. However, state and federally chartered financial institutions are not mortgage bankers or mortgage brokers. In 2009 Wisconsin Act 2 (Act 2), provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 were adopted into state law. Act 2 made extensive changes related to the regulation of mortgage loan originators and also made some changes related to the regulation of mortgage bankers and mortgage brokers, including changes related to minimum net worth and bonding amounts for mortgage bankers and mortgage brokers.

Under current law (after Act 2), an applicant for a mortgage banker license must file with the division a bond in the amount of \$300,000 to secure the applicant's faithful performance of duties and obligations and must submit evidence of a minimum net worth of \$250,000. An applicant for a mortgage broker license must file with the division a bond in the amount of \$120,000 to secure the applicant's

faithful performance of duties and obligations and must submit evidence of a minimum net worth of \$100,000.✓

This bill reduces the amount of the bond and net worth requirements for mortgage banker and mortgage broker applicants to the amounts usually applicable prior to Act 2.✓ Under the bill, an applicant for a mortgage banker license must file a bond in the amount of \$25,000✓ and submit evidence of a minimum net worth of \$100,000✓ and an applicant for a mortgage broker license must file a bond in the amount of \$10,000✓ and submit evidence of a minimum net worth of \$100,000.✓

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

✓  
1       **SECTION 1.** 224.72 (4) (a) 2. of the statutes, as affected by 2009 Wisconsin Act

2       2, is amended to read:

3       224.72 (4) (a) 2. File with the division a commercial surety bond which is in the  
4       amount of ~~\$300,000~~✓ \$25,000✓ for a mortgage banker or ~~\$120,000~~✓ \$10,000✓ for a  
5       mortgage broker, is issued by a surety company authorized to do business in this  
6       state, secures the applicant's faithful performance of all duties and obligations of a  
7       mortgage banker or mortgage broker, is payable to the division for the benefit of  
8       persons to whom the mortgage banker or mortgage broker provided services as a  
9       mortgage banker or mortgage broker, is issued on a form that is acceptable to the  
10      division and provides that the bond may not be terminated without at least 30 days'  
11      written notice to the division.

History: 1987 a. 359; 1987 a. 403 ss. 18, 256; Stats. 1987 s. 440.72; 1989 a. 45; 1991 a. 39; 1993 a. 112; 1995 a. 27 ss. 6210, 6527m, 6528m, 6535m, 6591 to 6593; Stats. 1995 s. 224.72; 1995 a. 465; 1997 a. 27, 38, 145, 191, 237, 252; 1999 a. 9, 32; 2003 a. 260; 2007 a. 20; 2009 a. 2.

12      **SECTION 2.** 224.72 (4) (a) 4. of the statutes, as affected by 2009 Wisconsin Act

13      2, is amended to read:

14      224.72 (4) (a) 4. Submit evidence that establishes, to the division's satisfaction,  
15      a minimum net worth of ~~\$250,000~~✓ \$100,000✓ for a mortgage banker or ~~\$100,000~~✓ for  
16      a mortgage broker. Evidence of net worth shall include the submission of recent  
17      financial statements accompanied by a written statement by an independent

- 1 certified public accountant attesting that he or she has reviewed the financial  
2 statements in accordance with generally accepted accounting principles.

**History:** 1987 a. 359; 1987 a. 403 ss. 182, 256; Stats. 1987 s. 440.72; 1989 a. 45; 1991 a. 39; 1993 a. 112; 1995 a. 27 ss. 6210, 6527m, 6528m, 6535m, 6591 to 6593; Stats. 1995 s. 224.72; 1995 a. 465; 1997 a. 27, 35, 145, 191, 237, 252; 1999 a. 9, 32; 2003 a. 260; 2007 a. 20; 2009 a. 2.

3

(END)



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

date

LRB-4235/P1dn

ARG:.....

JLd

ATTN: Lori Youngman✓

Please✓ review the attached draft carefully to ensure that it is consistent with your intent.

I note that the attached draft makes changes with respect to both the minimum net worth and the performance bond levels for mortgage bankers and mortgage brokers. Also, prior to 2009 Act 2, the minimum net worth and performance bond levels depended on several factors, but I believe that the amounts included in the attached draft were the amounts that were usually applicable. See s. 224.72 (4) (a) 2✓ and 4✓ and (d) 1. and 2. and (4m) (a) 1. and 3✓ and (b) 1. and 2., 2007 stats. I recommend that you confirm with DFI that the new amounts in the attached draft are in fact the amounts that were usually required prior to Act 2✓.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft✓.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.wisconsin.gov

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-4235/P1dn  
ARG:jld:rs

February 1, 2010

ATTN: Lori Youngman

Please review the attached draft carefully to ensure that it is consistent with your intent.

I note that the attached draft makes changes with respect to both the minimum net worth and the performance bond levels for mortgage bankers and mortgage brokers. Also, prior to 2009 Act 2, the minimum net worth and performance bond levels depended on several factors, but I believe that the amounts included in the attached draft were the amounts that were usually applicable. *See* s. 224.72 (4) (a) 2. and 4. and (d) 1. and 2. and (4m) (a) 1. and 3. and (b) 1. and 2., 2007 stats. I recommend that you confirm with DFI that the new amounts in the attached draft are in fact the amounts that were usually required prior to Act 2.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible “/1” draft.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: [aaron.gary@legis.wisconsin.gov](mailto:aaron.gary@legis.wisconsin.gov)

**Gary, Aaron**

---

**From:** Youngman, Lori  
**Sent:** Wednesday, February 03, 2010 10:42 AM  
**To:** Haberland, Catherine L - DFI  
**Cc:** Gary, Aaron  
**Subject:** RE: S.A.F.E. Act

Catherine,

Can you get an answer to Aaron's question?

Thanks.

Lori Youngman  
Office of State Rep. Jason Fields  
221 North State Capitol  
PO Box 8952  
Madison, WI 53708  
608-266-3756

2/3 - voice mail from Mike Mach -  
DFI 6-0451

should be all 3

---

**From:** Gary, Aaron  
**Sent:** Wednesday, February 03, 2010 10:10 AM  
**To:** Youngman, Lori  
**Subject:** RE: S.A.F.E. Act

2/4 - the w/ Lori -  
take out broker net worth amt. -  
make it "positive net worth"

Hi Lori,

Act 2 included three provisions providing an "exception" (via definitions) for DVA and its employees.

1. DVA is not considered a mortgage banker. See s. 224.71 (3) (b) 7.
2. DVA is not considered a mortgage broker. See s. 224.71 (4) (b) 9.
3. DVA employees are not considered mortgage loan originators. See s. 224.71 (6) (b) 4.

The e-mail below refers only to item 1. Is it your intent that *only* item 1. be repealed or that all three be repealed?

Thanks. Aaron

Aaron R. Gary  
Attorney, Legislative Reference Bureau  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

---

**From:** Youngman, Lori  
**Sent:** Tuesday, February 02, 2010 4:09 PM  
**To:** Gary, Aaron  
**Subject:** FW: S.A.F.E. Act

Aaron,

Could you include this change in LRB 4235/P1?

Thank you.

Lori Youngman  
Office of State Rep. Jason Fields  
221 North State Capitol



PO Box 8952  
Madison, WI 53708  
608-266-3756

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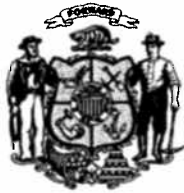
**From:** Mach, Mike J - DFI  
**Sent:** Tuesday, February 02, 2010 3:11 PM  
**To:** Haberland, Catherine L - DFI  
**Subject:** S.A.F.E. Act

Catherine

HUD has review our state statutes for compliance with the S.A.F.E. Act. HUD has informed us that the provision which exempts the Department of Veterans Affairs from licensing is in noncompliance with the S.A.F.E. Act.

The cite is: 224.71(3)(b)7. [7. The department of veterans affairs when administering the veterans housing loan program under subch. III of ch. 45.]

The cited reference needs to be repealed to bring our statutes in compliance with the S.A.F.E. Act.



State of Wisconsin  
2009 - 2010 LEGISLATURE

Needed  
by 2/5  
end of  
day

LRB-4235/

ARG:jld:rs

in 2/4  
P2  
stays  
RMA  
ibj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note

SA  
x-ref

Inserts

- 1 AN ACT *to amend* 224.72 (4) (a) 2. and 224.72 (4) (a) 4. of the statutes; **relating**  
2 **to:** licensing requirements for mortgage bankers and mortgage brokers.

*regen.*  
**Analysis by the Legislative Reference Bureau**

*for mortgage loan originator*  
X  
X  
Under current law, a person may not act as a mortgage banker *or* mortgage broker unless the person is licensed as such with the Division of Banking in the Department of Financial Institutions (division). A mortgage banker is, with certain exceptions, a person who originates residential mortgage loans (loans) for itself or for another person; sells loans or interests in loans to another person; or services loans or provides escrow services. A mortgage broker is, with certain exceptions, a person who, on behalf of a loan applicant or an investor and for commission or other compensation, finds a loan or negotiates a loan or loan commitment. *However,* state and federally chartered financial institutions are not mortgage bankers or mortgage brokers. In 2009 Wisconsin Act 2 (Act 2), provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 were adopted into state law. Act 2 made extensive changes related to the regulation of mortgage loan originators and also made some changes related to the regulation of mortgage bankers and mortgage brokers, including changes related to minimum net worth and bonding amounts for mortgage bankers and mortgage brokers.

*Insert ANAL-A*  
X  
Under current law (after Act 2), an applicant for a mortgage banker license must file with the division a bond in the amount of \$300,000 to secure the applicant's faithful performance of duties and obligations and must submit evidence of a minimum net worth of \$250,000. An applicant for a mortgage broker license must file with the division a bond in the amount of \$120,000 to secure the applicant's

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 224.72 (4) (a) 2. of the statutes, as affected by 2009 Wisconsin Act

2, is amended to read:

224.72 (4) (a) 2. File with the division a commercial surety bond which is in the amount of ~~\$300,000~~ \$25,000 for a mortgage banker or ~~\$120,000~~ \$10,000 for a mortgage broker, is issued by a surety company authorized to do business in this state, secures the applicant's faithful performance of all duties and obligations of a mortgage banker or mortgage broker, is payable to the division for the benefit of persons to whom the mortgage banker or mortgage broker provided services as a mortgage banker or mortgage broker, is issued on a form that is acceptable to the division and provides that the bond may not be terminated without at least 30 days' written notice to the division.

**SECTION 2.** 224.72 (4) (a) 4. of the statutes, as affected by 2009 Wisconsin Act

2, is amended to read:

224.72 (4) (a) 4. Submit evidence that establishes, to the division's satisfaction, a minimum net worth of ~~\$250,000~~ \$100,000 for a mortgage banker or ~~\$100,000~~ for a mortgage broker. Evidence of net worth shall include the submission of recent financial statements accompanied by a written statement by an independent

1 certified public accountant attesting that he or she has reviewed the financial  
2 statements in accordance with generally accepted accounting principles.

3 (END)

**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-4235/P2ins  
ARG:.....

1

2

**INSERT ANAL-A:**

(no 4) A mortgage loan originator is, with certain exceptions, an individual who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for compensation or gain.

3

**INSERT ANAL-B:**

Under current law, there are exceptions that expressly exclude the Department of Veterans Affairs (DVA), when administering its veterans housing loan program, from being considered a mortgage banker or mortgage broker and that exclude its employees from being considered mortgage loan originators.

This bill eliminates these exceptions applicable to DVA and its employees.

4

5

**INSERT 2-1:**

(6) is SECTION 1. 224.71 (3) (b) 7, 224.71 (4) (b) 9. and 224.71 (6) (b) 4. of the statutes  
(7) are repealed.  
(8) H SECTION # 224.71 (4) (b) 9 and (b) (b) 4 of the  
statutes, as created by 2009 Wisconsin Act 2,  
are repealed.

end of insert

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4235/P2dn

ARG:.....

Lbjk

Date

ATTN: Lori Youngman

Please review the attached draft carefully to ensure that it is consistent with your intent.

The attached draft repeals certain exceptions applicable to the Department of Veterans Affairs. I have no knowledge of DVA's Veterans Housing Loan Program and therefore I do not know whether the repeal of ~~ss. 224.71 (3) (b) 7, and (4) (b) 9, and (6) (b) 4.~~ will actually have any legal effect. This repeal will have a legal effect if DVA's operations under the program bring it within the definitions of mortgage banker, mortgage broker, or mortgage loan originator and if there is no other legal basis on which the state and state actors would be exempt from regulation under subch. III of ch. 224.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.wisconsin.gov



State of Wisconsin  
2009 - 2010 LEGISLATURE

stays  
LRB-4235/P2  
ARG:jld:md  
bjk

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Please keep  
two copy with  
the drafting  
file.

- 1 **AN ACT to repeal** 224.71 (3) (b) 7. and 224.71 (4) (b) 9. and (6) (b) 4.; and **to amend**  
2 224.72 (4) (a) 2. and 224.72 (4) (a) 4. of the statutes; **relating to:** licensing  
3 requirements for mortgage bankers and mortgage brokers.

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***Analysis by the Legislative Reference Bureau***

Under current law, a person may not act as a mortgage banker, mortgage broker, or mortgage loan originator unless the person is licensed as such with the Division of Banking in the Department of Financial Institutions (division). A mortgage banker is, with certain exceptions, a person who originates residential mortgage loans (loans) for itself or for another person; sells loans or interests in loans to another person; or services loans or provides escrow services. A mortgage broker is, with certain exceptions, a person who, on behalf of a loan applicant or an investor and for commission or other compensation, finds a loan or negotiates a loan or loan commitment. A mortgage loan originator is, with certain exceptions, an individual who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for compensation or gain. State and federally chartered financial institutions are not mortgage bankers or mortgage brokers. In 2009 Wisconsin Act 2 (Act 2), provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 were adopted into state law. Act 2 made extensive changes related to the regulation of mortgage loan originators and also made some changes related to the regulation of mortgage bankers and mortgage brokers, including changes related to minimum net worth and bonding amounts for mortgage bankers and mortgage brokers.

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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4235/P2dn  
ARG:bjk:md

February 4, 2010

ATTN: Lori Youngman

Please review the attached draft carefully to ensure that it is consistent with your intent.

The attached draft repeals certain exceptions applicable to the Department of Veterans Affairs. I have no knowledge of DVA's Veterans Housing Loan Program and therefore I do not know whether the repeal of s. 224.71 (3) (b) 7., (4) (b) 9., and (6) (b) 4. will actually have any legal effect. This repeal will have a legal effect if DVA's operations under the program bring it within the definitions of mortgage banker, mortgage broker, or mortgage loan originator and if there is no other legal basis on which the state and state actors would be exempt from regulation under subch. III of ch. 224.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "1" draft.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.wisconsin.gov

9  
→ Prior to Act 2, a mortgage broker <sup>with</sup> a "bona fide officer" in Wisconsin was required to file a \$100,000 bond <sup>(P)</sup> or have a minimum net worth of \$100,000, but a mortgage broker without a "bona fide officer" was required to file a \$120,000 bond <sup>(P)</sup> and have a minimum net worth of \$250,000 <sup>(I) See</sup> s. 224.72(4m). <sup>(P)</sup> Act 2 removed the "bona fide officer" distinction and modified these amounts.



faithful performance of duties and obligations and must submit evidence of a minimum net worth of \$250,000. An applicant for a mortgage broker license must file with the division a bond in the amount of \$120,000 to secure the applicant's faithful performance of duties and obligations and must submit evidence of a minimum net worth of \$100,000.

This bill reduces the amount of the bond and net worth requirements for mortgage banker and mortgage broker applicants ~~to the amounts usually applicable~~

~~under the bill~~ Under the bill, an applicant for a mortgage banker license must file a bond in the amount of \$25,000 and submit evidence of a minimum net worth of \$100,000. ~~an~~ an applicant for a mortgage broker license must file a bond in the amount of \$10,000 and submit evidence of a ~~minimum~~ net worth ~~of \$100,000~~. positive

Under current law, there are exceptions that expressly exclude the Department of Veterans Affairs (DVA), when administering its veterans housing loan program, from being considered a mortgage banker or mortgage broker and that exclude its employees from being considered mortgage loan originators.

This bill eliminates these exceptions applicable to DVA and its employees.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**SECTION 1.** 224.71 (3) (b) 7. of the statutes is repealed.

**SECTION 2.** 224.71 (4) (b) 9. and (6) (b) 4. of the statutes, as created by 2009 Wisconsin Act 2, are repealed.

**SECTION 3.** 224.72 (4) (a) 2. of the statutes, as affected by 2009 Wisconsin Act 2, is amended to read:

224.72 (4) (a) 2. File with the division a commercial surety bond which is in the amount of ~~\$300,000~~ \$25,000 for a mortgage banker or ~~\$120,000~~ \$10,000 for a mortgage broker, is issued by a surety company authorized to do business in this state, secures the applicant's faithful performance of all duties and obligations of a mortgage banker or mortgage broker, is payable to the division for the benefit of persons to whom the mortgage banker or mortgage broker provided services as a mortgage banker or mortgage broker, is issued on a form that is acceptable to the

1 division and provides that the bond may not be terminated without at least 30 days'  
2 written notice to the division.

3 **SECTION 4.** 224.72 (4) (a) 4. of the statutes, as affected by 2009 Wisconsin Act  
4 2, is amended to read:

5 224.72 (4) (a) 4. Submit evidence that establishes, to the division's satisfaction,  
6 a minimum net worth of ~~\$250,000~~ \$100,000 for a mortgage banker or ~~\$100,000 for~~ <sup>plain</sup>  
7 a mortgage broker. Evidence of net worth shall include the submission of recent  
8 financial statements accompanied by a written statement by an independent  
9 certified public accountant attesting that he or she has reviewed the financial  
10 statements in accordance with generally accepted accounting principles.

11 (END)

a positive net worth

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-4235/P2dn  
ARG:bjk:md

February 4, 2010

ATTN: Lori Youngman

Please review the attached draft carefully to ensure that it is consistent with your intent.

The attached draft repeals certain exceptions applicable to the Department of Veterans Affairs. I have no knowledge of DVA's Veterans Housing Loan Program and therefore I do not know whether the repeal of s. 224.71 (3) (b) 7., (4) (b) 9., and (6) (b) 4. will actually have any legal effect. This repeal will have a legal effect if DVA's operations under the program bring it within the definitions of mortgage banker, mortgage broker, or mortgage loan originator and if there is no other legal basis on which the state and state actors would be exempt from regulation under subch. III of ch. 224.

Prior to Act 2, a mortgage broker with a "bona fide office" in Wisconsin was required to file a \$10,000 bond *or* have a minimum net worth of \$100,000, but a mortgage broker without a "bona fide office" was required to file a \$120,000 bond *and* have a minimum net worth of \$250,000. *See* s. 224.72 (4m). Act 2 removed the "bona fide office" distinction and modified these amounts.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

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Phone: (608) 261-6926  
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2/8

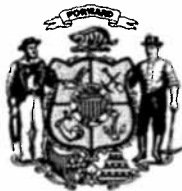
4/c from Lori - Rep. Fields

• 4235

• "positive net worth" → \$50,000 net worth

6-3756

TODAY



State of Wisconsin  
2009 - 2010 LEGISLATURE

TODAY

LRB-4235/1

ARG:jld&bjk:md

in 2/8

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regen

- 1 AN ACT *to repeal* 224.71 (3) (b) 7. and 224.71 (4) (b) 9. and (6) (b) 4.; and *to amend*  
2 224.72 (4) (a) 2. and 224.72 (4) (a) 4. of the statutes; **relating to:** licensing  
3 requirements for mortgage bankers and mortgage brokers.

---

***Analysis by the Legislative Reference Bureau***

Under current law, a person may not act as a mortgage banker, mortgage broker, or mortgage loan originator unless the person is licensed as such with the Division of Banking in the Department of Financial Institutions (division). A mortgage banker is, with certain exceptions, a person who originates residential mortgage loans (loans) for itself or for another person; sells loans or interests in loans to another person; or services loans or provides escrow services. A mortgage broker is, with certain exceptions, a person who, on behalf of a loan applicant or an investor and for commission or other compensation, finds a loan or negotiates a loan or loan commitment. A mortgage loan originator is, with certain exceptions, an individual who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for compensation or gain. State and federally chartered financial institutions are not mortgage bankers or mortgage brokers. In 2009 Wisconsin Act 2 (Act 2), provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 were adopted into state law. Act 2 made extensive changes related to the regulation of mortgage loan originators and also made some changes related to the regulation of mortgage bankers and mortgage brokers, including changes related to minimum net worth and bonding amounts for mortgage bankers and mortgage brokers.

Under current law (after Act 2), an applicant for a mortgage banker license must file with the division a bond in the amount of \$300,000 to secure the applicant's

faithful performance of duties and obligations and must submit evidence of a minimum net worth of \$250,000. An applicant for a mortgage broker license must file with the division a bond in the amount of \$120,000 to secure the applicant's faithful performance of duties and obligations and must submit evidence of a minimum net worth of \$100,000.

This bill reduces the amount of the bond and net worth requirements for mortgage banker and mortgage broker applicants. Under the bill, an applicant for a mortgage banker license must file a bond in the amount of \$25,000 and submit evidence of a minimum net worth of \$100,000. An applicant for a mortgage broker license must file a bond in the amount of \$10,000 and submit evidence of a ~~positive~~ minimum net worth.

\*  
\*  
of \$50,000

Under current law, there are exceptions that expressly exclude the Department of Veterans Affairs (DVA), when administering its veterans housing loan program, from being considered a mortgage banker or mortgage broker and that exclude its employees from being considered mortgage loan originators.

This bill eliminates these exceptions applicable to DVA and its employees.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 224.71 (3) (b) 7. of the statutes is repealed.

2           **SECTION 2.** 224.71 (4) (b) 9. and (6) (b) 4. of the statutes, as created by 2009  
3 Wisconsin Act 2, are repealed.

4           **SECTION 3.** 224.72 (4) (a) 2. of the statutes, as affected by 2009 Wisconsin Act  
5 2, is amended to read:

6           224.72 (4) (a) 2. File with the division a commercial surety bond which is in the  
7 amount of ~~\$300,000~~ \$25,000 for a mortgage banker or ~~\$120,000~~ \$10,000 for a  
8 mortgage broker, is issued by a surety company authorized to do business in this  
9 state, secures the applicant's faithful performance of all duties and obligations of a  
10 mortgage banker or mortgage broker, is payable to the division for the benefit of  
11 persons to whom the mortgage banker or mortgage broker provided services as a  
12 mortgage banker or mortgage broker, is issued on a form that is acceptable to the

1 division and provides that the bond may not be terminated without at least 30 days'  
2 written notice to the division.

3 SECTION 4. 224.72 (4) (a) 4. of the statutes, as affected by 2009 Wisconsin Act  
4 2, is amended to read:

5 224.72 (4) (a) 4. Submit evidence that establishes, to the division's satisfaction,  
6 a minimum net worth of \$250,000 \$100,000 ✓ for a mortgage banker or \$100,000 <sup>\$50,000</sup> ~~one~~  
7 ~~positive net worth~~ for a mortgage broker. Evidence of net worth shall include the  
8 submission of recent financial statements accompanied by a written statement by an  
9 independent certified public accountant attesting that he or she has reviewed the  
10 financial statements in accordance with generally accepted accounting principles.

11 (END)

**Basford, Sarah**

---

**From:** Youngman, Lori  
**Sent:** Tuesday, February 09, 2010 9:40 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-4235/1 Topic: Net worth requirement for mortgage bankers and mortgage brokers

Please Jacket LRB 09-4235/1 for the ASSEMBLY.



**Gary, Aaron**

---

**From:** Youngman, Lori  
**Sent:** Wednesday, February 17, 2010 3:16 PM  
**To:** Gary, Aaron  
**Subject:** LRB 4235 Bond Amounts  
**Attachments:** mortgage banker and broker bond amounts.doc

Aaron,

Attached is new language regarding bond amounts for mortgage bankers and brokers. Can you change LRB 4235 to reflect this new tier system?

Thank you.

Lori Youngman  
Office of State Rep. Jason Fields  
221 North State Capitol  
PO Box 8952  
Madison, WI 53708  
608-266-3756

---

**From:** Mach, Mike J - DFI [mailto:Mike.Mach@dfi.wisconsin.gov]  
**Sent:** Friday, February 12, 2010 9:59 AM  
**To:** Youngman, Lori  
**Subject:** Bond Amounts

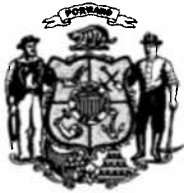
Attached is language that creates a tiered level for bond amounts.

Michael J. Mach  
Administrator  
Division of Banking  
Department of Financial Institutions  
345 W. Washington Ave.  
P.O. Box 7876  
Madison, WI 53707-7876  
(608) 266-0451

File with the division a commercial surety bond issued by a surety company authorized to do business in this state, which secures the applicant's faithful performance of all duties and obligations of a mortgage banker or mortgage broker, is payable to the division for the benefit of person to the whom the mortgage banker or broker provided service as a mortgage banker or mortgage broker, is issued on a form that is acceptable to the division and provides that the bond may not be terminated without at least 30 days' written notice to the division.

The bond amounts for mortgage bankers are; (1) \$100,000 if mortgage originations in a calendar year are less than \$10 million; (2) \$200,000 if mortgage originations are greater than \$10 million and less than \$50 million; and (3) \$300,000 if mortgage loan originations are greater than \$50 million.

The bond amounts for mortgage brokers are: (1) \$50,000 if mortgage origination in a calendar year are less than \$10 million; (2) \$75,000 if mortgage originations are greater than \$10 million and less than \$50 million; and (3) \$100,000 if originations are greater than \$50 million.



State of Wisconsin  
2009 - 2010 LEGISLATURE

TODAY

2009 BILL

Wanted  
by 2/19  
and of  
key  
in  
2/18

LRB-4235/2

ARG:jld&bjk:jf

D Note

ReGen

- 1 AN ACT *to repeal* 224.71 (3) (b) 7. and 224.71 (4) (b) 9. and (6) (b) 4.; and *to amend*  
2 224.72 (4) (a) 2. and 224.72 (4) (a) 4. of the statutes; **relating to:** licensing  
3 requirements for mortgage bankers and mortgage brokers. ✓

---

***Analysis by the Legislative Reference Bureau***

Under current law, a person may not act as a mortgage banker, mortgage broker, or mortgage loan originator unless the person is licensed as such with the Division of Banking in the Department of Financial Institutions (division). A mortgage banker is, with certain exceptions, a person who originates residential mortgage loans (loans) for itself or for another person; sells loans or interests in loans to another person; or services loans or provides escrow services. A mortgage broker is, with certain exceptions, a person who, on behalf of a loan applicant or an investor and for commission or other compensation, finds a loan or negotiates a loan or loan commitment. A mortgage loan originator is, with certain exceptions, an individual who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for compensation or gain. State and federally chartered financial institutions are not mortgage bankers or mortgage brokers. In 2009 Wisconsin Act 2 (Act 2), provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 were adopted into state law. Act 2 made extensive changes related to the regulation of mortgage loan originators and also made some changes related to the regulation of mortgage bankers and mortgage brokers, including changes related to minimum net worth and bonding amounts for mortgage bankers and mortgage brokers.

**BILL**

Under current law (after Act 2), an applicant for a mortgage banker license must file with the division a bond in the amount of \$300,000 to secure the applicant's faithful performance of duties and obligations and must submit evidence of a minimum net worth of \$250,000. An applicant for a mortgage broker license must file with the division a bond in the amount of \$120,000 to secure the applicant's faithful performance of duties and obligations and must submit evidence of a minimum net worth of \$100,000.

*Insert  
ANAL* → This bill reduces the amount of the bond and net worth requirements for mortgage banker and mortgage broker applicants. Under the bill, an applicant for a mortgage banker license must file a bond in the amount of \$25,000 and submit evidence of a minimum net worth of \$100,000. An applicant for a mortgage broker license must file a bond in the amount of \$10,000 and submit evidence of a minimum net worth of \$50,000. *Q*

Under current law, there are exceptions that expressly exclude the Department of Veterans Affairs (DVA), when administering its veterans housing loan program, from being considered a mortgage banker or mortgage broker and that exclude its employees from being considered mortgage loan originators.

This bill eliminates these exceptions applicable to DVA and its employees.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 224.71 (3) (b) 7. of the statutes is repealed.

2           **SECTION 2.** 224.71 (4) (b) 9. and (6) (b) 4. of the statutes, as created by 2009  
3 Wisconsin Act 2, are repealed. *X*

*Insert  
2-4* → 4           **SECTION 3.** 224.72 (4) (a) 2. of the statutes, as affected by 2009 Wisconsin Act  
5 2, is amended to read: *X*

6           224.72 (4) (a) 2. File with the division a commercial surety bond which is in the  
7 amount of ~~\$300,000~~ \$25,000 for a mortgage banker or ~~\$120,000~~ \$10,000 for a  
8 mortgage broker, is issued by a surety company authorized to do business in this  
9 state, secures the applicant's faithful performance of all duties and obligations of a  
10 mortgage banker or mortgage broker, is payable to the division for the benefit of  
11 persons to whom the mortgage banker or mortgage broker provided services as a  
12 mortgage banker or mortgage broker, is issued on a form that is acceptable to the

**BILL**

1 division and provides that the bond may not be terminated without at least 30 days'  
2 written notice to the division.

3 **SECTION 4.** 224.72 (4) (a) 4. of the statutes, as affected by 2009 Wisconsin Act  
4 2, is amended to read:

5 224.72 (4) (a) 4. Submit evidence that establishes, to the division's satisfaction,  
6 a minimum net worth of \$250,000 \$100,000 for a mortgage banker or \$100,000  
7 \$50,000 for a mortgage broker. Evidence of net worth shall include the submission  
8 of recent financial statements accompanied by a written statement by an  
9 independent certified public accountant attesting that he or she has reviewed the  
10 financial statements in accordance with generally accepted accounting principles.

11 (END)

d-note  
↓

**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-4235/2ins  
ARG:.....

1           **INSERT ANAL:**

          This bill reduces, with one exception, the amount of the bond and net worth requirements for mortgage banker and mortgage broker applicants. Under the bill, an applicant for a mortgage banker license must file a bond in an amount that ranges from \$100,000 to \$300,000, depending on the annual amount of the mortgage banker's loan originations, and must submit evidence of a minimum net worth of \$100,000. An applicant for a mortgage broker license must file a bond in an amount that ranges from \$50,000 to \$100,000, depending on the annual amount of the mortgage broker's loan originations, and must submit evidence of a minimum net worth of \$50,000.

2           **INSERT 2-4:**

3           **SECTION 1.** 224.72 (4) (a) 2. of the statutes, as affected by 2009 Wisconsin Act  
4           2, is renumbered 224.72 (4) (a) 2. (intro.) and amended to read:

5           224.72 (4) (a) 2. <sup>(Intro.)</sup> File with the division a commercial surety bond which is in the  
6           amount of \$300,000 for a mortgage banker or \$120,000 for a mortgage broker, that  
7           is issued by a surety company authorized to do business in this state, secures the  
8           applicant's faithful performance of all duties and obligations of a mortgage banker  
9           or mortgage broker, is payable to the division for the benefit of persons to whom the  
10          mortgage banker or mortgage broker provided services as a mortgage banker or  
11          mortgage broker, is issued on a form that is acceptable to the division and, provides  
12          that the bond may not be terminated without at least 30 days' written notice to the  
13          division, and is in the following amount:

**History:** 1987 a. 359; 1987 a. 403 ss. 182, 256; Stats. 1987 s. 440.72; 1989 a. 45; 1991 a. 39; 1993 a. 112; 1995 a. 27 ss. 6210, 6527m, 6528m, 6535m, 6591 to 6593; Stats. 1995 s. 224.72; 1995 a. 465; 1997 a. 27, 35, 145, 191, 237, 252; 1999 a. 9, 32; 2003 a. 260; 2004 a. 20; 2009 a. 2.

14          **SECTION 2.** 224.72 (4) (a) 2. a. and b. of the statutes are created to read:

15          224.72 (4) (a) 2. a. For a mortgage banker, \$100,000 if the mortgage banker has  
16          residential mortgage loan originations in a calendar year of less than \$10,000,000;

↓

1 \$200,000<sup>✓</sup> if the mortgage banker has residential mortgage loan originations in a  
2 calendar year of at least \$10,000,000<sup>✓</sup> but less than \$50,000,000<sup>✓</sup>; and \$300,000<sup>✓</sup> if the  
3 mortgage banker has residential mortgage loan originations in a calendar year of at  
4 least \$50,000,000<sup>✓</sup>.

5 b. For a mortgage broker<sup>✓</sup>, \$50,000 if the mortgage broker has residential  
6 mortgage loan originations in a calendar year of less than \$10,000,000<sup>✓</sup>; \$75,000<sup>✓</sup> if the  
7 mortgage broker has residential mortgage loan originations in a calendar year of at  
8 least \$10,000,000 but less than \$50,000,000<sup>✓</sup>; and \$100,000<sup>✓</sup> if the mortgage broker  
9 has residential mortgage loan originations in a calendar year of at least<sup>✓</sup> \$50,000,000.

10 (end ins)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4235/2dn

ARG:.....

date

jld

ATTN: Lori Youngman ✓

I made a couple of modifications to the suggested language provided to me. The suggested language covered origination ranges of less than \$10 million and more than \$10 million but omitted exactly \$10 million, so I filled this gap. Because the licensing requirements under subch. III of ch. 224 apply only with respect to residential mortgage loans, I have assumed that these origination ranges should also apply only with respect to residential mortgage loans and not, for example, to commercial loan originations. I have clarified this issue in the draft. Please advise if I have assumed incorrectly. Finally, I have used the suggested language of referring to a dollar amount of "loan originations," but it does seem rather colloquial. If DFI has a suggested improvement on this language to make it more precise, I would be happy to make that change.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.wisconsin.gov



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-4235/2dn  
ARG:jld:ph

February 18, 2010

ATTN: Lori Youngman

I made a couple of modifications to the suggested language provided to me. The suggested language covered origination ranges of less than \$10 million and more than \$10 million but omitted exactly \$10 million, so I filled this gap. Because the licensing requirements under subch. III of ch. 224 apply only with respect to residential mortgage loans, I have assumed that these origination ranges should also apply only with respect to residential mortgage loans and not, for example, to commercial loan originations. I have clarified this issue in the draft. Please advise if I have assumed incorrectly. Finally, I have used the suggested language of referring to a dollar amount of "loan originations," but it does seem rather colloquial. If DFI has a suggested improvement on this language to make it more precise, I would be happy to make that change.

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